

LAST WILL OF MRS. THELMA PARKER SMART IS FILED

PETITION FOR ADMISSION OF DOCUMENT TO PROBATE ACCOMPANIES INSTRUMENT

Specific Bequests Aggregating \$167,500 Are Made; \$50,000 Going To Husband, \$25,000 To Stepfather and \$10,000 To Alfred W. Carter, While Husband Gets Income

FOR the first time since it was drawn a year ago the full terms and provisions of the last will and testament of the late Thelma Parker Smart are made known to the public today in The Advertiser. The will was filed yesterday in the office of the chief clerk of the first circuit court in Honolulu, together with a petition praying for the proving of the important document. The hearing will be held before Circuit Judge William L. Whitney on February 15 at two o'clock in the afternoon.

In the petition for probate, filed by the well known law firm of Thompson, Wilder, Milverton & Lymer of this city, Henry Gaillard Smart, the widower, asks that he, Alfred W. Carter and Olaf L. Sorenson be appointed executors of the will, in conformity to the expressed wishes of the deceased, as set forth in the will itself.

At the same time with the filing of the petition for the probate of the will another petition was filed by Smart asking for the appointment of a guardian ad litem for Richard Smart, a minor, who is the only surviving child of the late Mrs. Smart and her husband, H. G. Smart.

Judge Perry Appointed Guardian Ad Litem

In pursuance of the request contained in the second petition, Judge Whitney appointed Antonio Perry, a former associate justice of the territorial supreme court, "a fit and suitable person therefor," as guardian ad litem of Richard Smart, a minor. This means that for the purposes of the petition to probate the will Judge Perry will represent the minor.

In the suit instituted by Mrs. Elizabeth J. Knight in Kailua last week, in which she asked that she be given the custody of her grandchild, it was first reported here that W. A. Kinney had been appointed guardian ad litem of the minor. Information received yesterday direct from Judge John A. Mathewman, presiding circuit judge of the third circuit court, with headquarters in Kailua, West Hawaii, was to the effect that Attorney David L. Withington of Honolulu had been appointed as such guardian. The appointment of Mr. Kinney simply was temporary.

Thus the valuable estate left by Mrs. Smart has been thrown into the courts in three separate and distinct actions—first, Mrs. Knight's petition to be given the custody of Richard Smart, the minor; second, Mrs. Knight's petition for administration of the estate; third, Smart's petition for the probate of the will.

Mrs. Knight's petition for administration, filed only the day before yesterday in the local circuit court, was expected to force the hands of one of the factions now warring over the big estate. This view seems to have been well taken, for Smart's petition for the probate of his wife's will was filed twenty-four hours after Mrs. Knight's petition was filed.

Specific Bequests Aggregating \$167,500

Specific bequests are made in the will, aggregating \$167,500, over and above the disposition of the estate proper as designed in the will. The largest specific bequest is one of \$50,000, which the executors are ordered to pay to Henry Gaillard Smart. Frederick S. Knight, Mrs. Smart's stepfather, is given \$25,000, while to her friend, Alfred W. Carter, "as evidence of my appreciation of his many services to me," says the testator, is left \$10,000.

Three brothers-in-law and a sister-in-law, on the Smart side of the house, are to receive \$5000 each. Uncles, aunts, both direct and in-law, brothers, sisters, friends and a number of servants, supposed, by the last mentioned not being so designated, are left sums from \$500 to \$500 each.

As is usual in wills, the testator directed, first, that all her just debts and funeral expenses be paid. She then directed that all her personal goods and effects, including jewelry, should go to her husband. In case he did not survive her these were to go to her children and should these not survive her, to her mother, Mrs. Elizabeth J. Knight. Next follows the clause providing for the disposition of the income of the estate in conformity with the provisions of the trust deed.

Entire Income To Go To Smart

The entire income of the estate is to be paid to her husband, subject to the termination of the trust deed and Smart is requested to pay to each of the children, from the time they attain their majority, "one share of two-thirds of said estate estate." Then follows the specific cash bequests already mentioned.

The most important wish expressed by the late Mrs. Smart in her will is that the "Parker Ranch may be retained in the possession and ownership of my family and as a source of income to my husband and my descendants." To this end Mrs. Smart earnestly requests that her husband, children and descendants do not "transfer, pledge, mortgage or assign their respective interests in the income or capital of my said trust estate given by this will."

They are further earnestly requested not to "sell or mortgage their respective interests," and if such disposition should become necessary, then, to first offer the sale or mortgaging of such interest or interests to the other members of the family.

Paragraph seven of the will reads as follows:

"The provisions hereinbefore contained for my husband, Henry Gaillard Smart, are in lieu of his right of courtesy."

In the last paragraph the testator nominates and appoints Henry Gaillard Smart, Alfred W. Carter and Olaf L. Sorenson, as executors. She directs that no bond shall be required from them as said executors.

The will was executed January 16, 1914, and bears the signatures of E. C. Pratt, Barry S. Ulrich and William R. Lymer as witnesses.

Provisions of Trust Deed

In order to understand the reference made in Mrs. Smart's will to the trust deed executed by her April 25, 1912, it will be necessary to review here to the provisions of this instrument.

The trust deed was made by the late Annie T. K. Parker to Alfred W.

Knight, was allowed \$1000 per month income. The trustee also was given \$5000 a year to spend as he saw fit for the maintenance and care of aged, disabled or indigent employees of the Parker Ranch or their families.

Disposition of Income

After the indebtedness of the estate was paid off seventy-five per cent of the net income was to be paid as follows:

Two-thirds of it, or fifty per cent of the whole income, to the then Mrs. Parker, and one-third, or twenty-five per cent of the income, to Mrs. Knight, provided that Mrs. Parker's income shall not at this time be less than \$3000 and her mother's less than \$1500 per month, any deficiency as to these incomes to be made up from the remaining twenty-five per cent of the net earnings.

The twenty-five per cent of the earnings not definitely provided for was to be used by the trustees for educational, charitable or for the purchase of real estate or other investments. The administrator was to receive compensation for his services and commissions provided for by law in administration of estates and he was required to give a bond in the sum of \$100,000.

Attorney Kinney Expected

Attorney W. A. Kinney, who will likely take the leadership in conducting the proving of the will for Mrs. Knight, is not expected to reach Honolulu from San Francisco until next Tuesday morning in the steamer Wilhelmina. It is probable that the contest for the custody of the minor child and for the administration of the estate asked by Mrs. Knight will be merged and lined up against the petition of H. G. Smart for the proving of the will.

It is also understood that the legal army opposed to the Smart faction in the great court battle which will be waged will hold forth that no will was ever executed or that if such an instrument was ever signed it was no signed under duress or through coercive methods.

Commander Stirling Recites Neglect of Atlantic Submarines

According to the reports of the recent sessions of the House Committee on Naval Affairs, the efforts of the "little navy" members to exploit the submarine at the expense of the battleship has acted as a boomerang on their hopes besides putting the Secretary of the Navy in a bad light for his attitude towards the submarine and the torpedo.

With Congressman Gardner, the author of the resolution for Congressional inquiry into the national defense, sitting at the head of the committee, the committee members, instead of calling any large number of witnesses before it and the choice was made with great care and was usually limited to such persons as the Secretary of the Navy approved.

Commander Stirling Summoned

The "little navy" members have become hipped on the subject of the submarine and the possibility of substituting several of these craft for a battleship in this year's naval estimates, so they requested the presence of Commander Yates Stirling, the commander of the Atlantic submarine flotilla. Secretary Daniels is said to have demurred at this suggestion and to have indicated that the summons for Commander Stirling was not to his liking.

Wholly misinterpreting the Secretary's motive and suspecting that he did not favor the substituting of underwater warships for the battleship the "little navy" members insisted and Commander Stirling was directed to appear before the committee. The character of the Commander's testimony was totally unexpected and was greatly to the satisfaction of Mr. Gardner, whose smile is said to have expanded to the elastic limit, and also to the discomfort of the Secretary's supporters in the committee, whose efforts to excuse Commander Stirling from further attendance before he had hardly begun his talk, were thwarted by the Republican members who gleefully insisted on a full recital of the submarine question.

Department Neglected Submarine

Commander Stirling's testimony amounted to a severe indictment of the navy department for its neglect of the Atlantic submarine flotilla. He informed the committee that it was just until after the exploits of the German submarines in the North Sea that the navy department took this type of vessel with any degree of seriousness. The witness said that the navy department was apparently interested in the submarine, but had doubted its effectiveness and that, accordingly, the two flotillas, one stationed in the Atlantic and the other in the Pacific, were neglected and permitted to run down in efficiency.

Only One Can Dive

Lamenting his remarks, however, to the Atlantic flotilla, which he commands, Commander Stirling testified that only one of the seventeen vessels under his command is able to dive. All the others are in a state of disrepair. Either their batteries are out of order from use or they are deficient in other respects while the witness did not say so directly before the committee, further questioning developed the fact that he had reported within the past six months the condition of his command to the Department and that the responsibility for the flotilla's condition was due to the neglect of the Washington authorities.

John Monroe was convicted by a jury in Judge Ashford's court Monday on a charge of second degree robbery and sentenced to four years' imprisonment in Oahu penitentiary.

TEXT OF THELMA PARKER SMART'S WILL Instrument Filed For Probate In Honolulu

FOLLOWING is the text of the last will and testament of the late Mrs. Thelma Parker Smart, which was filed yesterday in the circuit court by Henry G. Smart:

"KNOW ALL MEN BY THESE PRESENTS:

"THAT I, ANNIE T. K. PARKER SMART, wife of HENRY GAILLARD SMART, of Honolulu, Territory of Hawaii, being of sound mind and memory, do make, publish and declare my last Will and Testament in the manner following, hereby revoking all former wills by me made:

"FIRST: I direct that all my just debts and funeral expenses be paid.

"SECOND: I give and bequeath all of my personal goods and effects of whatever kind and wherever situated, including jewelry, to my husband, HENRY GAILLARD SMART, or if he be dead, to my children who shall survive me, or, if I shall not leave any children surviving me, to my mother, ELIZABETH J. KNIGHT.

"THIRD: I give and bequeath all of my household furniture and goods and effects of whatever kind and wherever situated, including furniture, pictures, books, objects of art, china, silver and linen, to my husband, HENRY GAILLARD SMART, or if he be dead, to my children who shall survive me, or, if I shall not leave any children surviving me, to my mother, ELIZABETH J. KNIGHT.

"FOURTH: If I die before my mother, ELIZABETH J. KNIGHT, and therefore before the termination of the trust established by me under trust deed dated April 25, A. D. 1912, recorded in the Hawaiian Registry of Conveyances, Volume 365, page 273, to ALFRED W. CARTER as Trustee, I, acting under and by virtue of the power given me under said trust deed and also under and by virtue of every other right and power hereunto enabling me, do hereby give, bequeath and dispose of all the income of the trust estate established by said trust deed which would have been paid to me if I had survived until the termination of the said trust (to-wit, the death of the survivor of my said mother and myself), as follows, and do hereby appoint the following persons to receive the same, and do hereby direct the Trustee under said deed of trust to pay the said income until the termination of said trust, as follows:

"I give and bequeath to my said husband, HENRY GAILLARD SMART, the entire income so long as he shall live, subject, however, to the termination of said trust, and I request my said husband, HENRY GAILLARD SMART, to give, until the termination of said trust, to each of my children from the time that he or she becomes of age, one share of two-thirds of said entire income, and I further request my said husband, HENRY GAILLARD SMART, in case of the death of any of my children before the termination of said trust leaving lawful issue surviving, to give to such issue the share of said income which he would otherwise have given to the child so dying.

"Should my said husband, HENRY GAILLARD SMART, be dead at the time of my death, I give and bequeath said entire income to all of my children then living and the lawful issue then living of any deceased child, such issue taking by right of representation.

"FIFTH: Whether I die before or after or together with my mother, ELIZABETH J. KNIGHT, I do hereby, acting under and by virtue of the power given me under said trust deed and also under and by virtue of every other right and power under or independent of and apart from said trust deed hereunto enabling me, give, bequeath, devise and dispose of all the rest, residue and remainder of my estate, both real and personal, wherever situated and of whatever nature, whether legal or equitable, vested or contingent, present or future interests, including all the principal of said trust estate established under said trust deed and existing at the time of the final termination of the trust, (to-wit, the death of the survivor of myself and my mother, ELIZABETH J. KNIGHT), to the following named persons, in the following amounts respectively, and I hereby appoint the following persons to receive the said principal of said trust estate at the termination of said trust, in the following proportions respectively, and do hereby direct the Trustee under said trust deed to convey, transfer and deliver the said principal of said trust estate at the said termination of said trust, to the following named persons in the following sums and proportions specified respectively, conditioned, however, in each case, on the survival of the person until the termination of the trust established by said trust deed:

To my husband, Henry G. Smart, \$50,000
To my stepfather, Frederick S. Knight, \$25,000

To my aunt, Harriet Dowsett, widow of my deceased uncle, James I. Dowsett, 5,000
To my aunt, Martha Dowsett, wife of my uncle, A. C. Dowsett, 5,000
To my aunt, Annie Kirkaldy, 5,000
To my aunt, Marion Worthington, 5,000
To my uncle, Samuel Dowsett, 5,000
To my aunt, Eva Woods, 5,000
To my aunt, Helen Widemann, 5,000
To my uncle, Ernest Parker, 5,000
To my brother-in-law, Richard Davis Smart Jr., 5,000
To my brother-in-law, Wyatt Aiken Smart, 5,000
To my brother-in-law, Frank Pelzer Smart, 5,000
To my sister-in-law, Ella Aiken Smart, 5,000
To my cousin, Ilene Maguire, daughter of my deceased aunt, Mary Maguire, 5,000
To my cousin, Charlotte Dowsett, 5,000
To my friend, Suzette C. Newton, 3,000
To my friend, Harriet Bradford, 3,000
To Kaao Kailikini, 500
To Waialaia Kailikini, 500
To Mary Silva Freitas, 500
To my friend, Alfred W. Carter, as evidence of my appreciation of his many services to me, 10,000

"I further give and bequeath to my husband and all of the above legacies which shall or may lapse by reason of any legatee not surviving the termination of said trust.

"I give, devise and bequeath all of the rest, residue and remainder of said property, after said payment of said legacies, to my said husband, HENRY GAILLARD SMART, and I request my said husband, HENRY GAILLARD SMART, to give to each of my children, from the time that he or she becomes of age, one share of two-thirds of the net profits from said rest, residue and remainder of said property, and in case of the death of any of my children before that time leaving lawful issue surviving, to give to such issue the share of said net profits which he or she otherwise would have given to the child so dying.

"Should my said husband, HENRY GAILLARD SMART, be dead at the termination of said trust, I give, devise and bequeath all of the rest, residue and remainder of said property, after said payment of said legacies, to my children who shall be living at the termination of said trust, in equal shares if more than one, and to the lawful issue who shall survive until the termination of said trust, of my children who shall die before that time, taking by right of representation the share the parent would have taken if he or she had survived until that time.

"SIXTH: I earnestly request my husband, my children and descendants not to transfer, pledge, mortgage or assign their respective interests in the income or capital of my said trust estate given by this will, and I earnestly request my husband and my children and descendants not to sell or mortgage their respective interests in the PARKER RANCH, so-called, situated on the Island of Hawaii, Territory of Hawaii, and if they become obliged to sell or mortgage, to first offer their interests for sale or as security for a loan, as the case may be, to the other members of the family then owning interests in said PARKER RANCH, my intent and wish being that the said PARKER RANCH may be retained in the possession and ownership of my family and as a source of income to my husband and my descendants.

"SEVENTH: The provisions hereinabove contained for my husband, HENRY GAILLARD SMART, are in lieu of his right of courtesy.

"EIGHTH: I nominate and appoint HENRY GAILLARD SMART, ALFRED W. CARTER, and OLAF L. SORENSON, Executors of this Will, and direct that no bond shall be required from them as said Executors.

"IN WITNESS WHEREOF, I have hereunto set my hand and seal this 16th day of January, A. D. 1914.

(S) ANNIE T. K. PARKER SMART (SEAL)
Signed, sealed, published and declared by the said ANNIE T. K. PARKER SMART, as and for her last Will and Testament, in the presence of us, being present at the same time, who, at her request, in her presence and in the presence of each other have hereunto subscribed our names as witnesses to the same this 16th day of January, A. D. 1914.

(S) E. C. PRATT,
(S) BARRY S. ULRICH,
(S) WILLIAM B. LYMER.

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FROM ADVICES FROM TACOMA, WASH.
The war department continues to send heavy steel gun mountings and other stores through to the fortifications at Manila by the Japanese steamers from that city. Two shipments of mine platforms each have been dispatched from the Puget Sound port, the first shipment going by the Tacoma Maru and the last one by the Seattle Maru about ten days ago.

YAMAMOTO GRAFT GIVES JAPANESE CHANCE TO BAIT
Victims of Swindler Who Must Serve Two Years in Prison Ridiculed by Countrymen

VERNACULAR PRESS SAYS INCIDENT CARRIES MORAL
Mr. Sheba Warns His Readers That They Must Love Hawaii or 'Stay Outside'

JAPANESE MUST CHOOSE
"We must decide now whether we shall make Hawaii our future home or not."

"If we wish to stay in Hawaii we must love Hawaii."

"The next generation is going to be of Hawaii's citizenship, then the fathers and mothers must by their own examples teach their children to love Hawaii."

"Let us decide either to be inside or outside, and the insiders must always protect their own interests from those staying outside."—From Editorial in Hawaii Shingo, by S. Sheba.

(From Wednesday Advertiser.)
The announcements which have followed the arrest of Charley Yamamoto that he had collected considerable amounts from various Japanese physicians of the city and from the officials of the Hongwanji Buddhist Mission, on the plea that he was a Japanese secret service agent here, to secure the plans of the Oahu fortifications for his government, has aroused considerable discussion among the Japanese of the city, much of it far from complimentary to the man who was imposed upon.

Victims Practically Blackmailed
An investigation among the victims of Yamamoto, which is only one of the many slanders possessed by this slippery criminal, shows that there are mitigating circumstances and that the money was extorted more in the shape of blackmail than as a willing contribution to the work of an alleged spy.

In nearly every instance Yamamoto impressed upon his victims that his was a case of life or death, leaving it to the victim himself to judge whether the refusal of the cash would result in the possible loss of his life or the murder of the one before him.

An investigation reaching for a revolver which the victim made up their minds. Life and Death to Japan.

Another strong bit of pressure put upon the Japanese "tongued" was the statement that if they would not succumb to their blackmail they would be returned to Japan to have on record in the foreign office the fact that they refused help to a fellow countryman in a foreign land, in danger of his life because of the work he was performing for his country. He also intimated that those who refused to give money would be "marked" and "marked" means "marked" for death and death to Japan.

With strong secret every time on the death word and "business of reaching for a gun."

Father's Son in Distress
In some cases stress was placed upon the fact that his "father," General Nogi, was the commander of the Japanese forces at Hiroshima during the Japanese-Russian war, would not forget any favors done to his son by Hiroshima in Hawaii. "It was this plea which got him by at the Buddhist Mission, General Nogi having done much for the 'tongue'."

The head priest, Mr. Yamamoto did not believe him to be a spy, but gave him money as his father's son in distress.

Japes Ridiculed by Countrymen
In spite of all the explanations, however, the victims of Yamamoto are being subjected to chaff and ridicule among the local Japanese and to severe criticism on the part of a part of the local Japanese press. The Hawaii Shingo, which represents that class among the local Japanese who do not expect to return to Japan and who are bringing up their children as citizens of the United States, likes the assistance given to a presumed spy to the act of one who would open a friend's door to admit a spy.

The Shingo has had two editorials on the subject, one on Sunday, after the news of Yamamoto's arrest had been reported in The Advertiser, and the other yesterday morning.

Participation is Condemned
These editorials are as follows:
"The fact that the self-proclaimed Marquis Nogi has been so quickly apprehended and is now behind the bars is a source of much gratification to us. We could not, however, account to ourselves easily why any intelligent Japanese should have fallen a prey of this cheap impostor. We know, at least, that those who have contributed to the defrauder did so in belief that the boy was General Nogi's son, and not in any desire to help him in his self-chosen base and deplorable course. It is proper that those who have contributed so unthinkingly should suffer humiliation. Participation of one countryman in this unfortunate incident should receive the condemnation of the entire Japanese community."

Parting of the Ways
Yesterday the Shingo said:
"The blunder that has been made by a few thoughtless men in helping a fellow who pretended to be a military agent should be a lesson for the future, though our investigation tends to convince us that intimidation had more to do with it than any belief that the (Continued on page 3.)"